

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

ZACKARY ELLIS SANDERS,

Defendant.

Case No. 1:20-cr-00143
The Honorable Judge Ellis

Hearing: June 11, 2021

**MEMORANDUM IN SUPPORT OF MOTION TO SEAL PORTIONS OF
DEFENDANT'S OPPOSITION TO GOVERNMENT'S MOTION TO EXCLUDE
EVIDENCE AT TRIAL AND CONSENT TO GOVERNMENT'S
MOTION TO CONTINUE TRIAL**

I. INTRODUCTION

Zackary Ellis Sanders, by counsel, moves this Honorable Court, pursuant to Local Crim. R. 49, for entry of an Order permitting portions of his Opposition to Government's Motion to Exclude Evidence at Trial and Consent to Government's Motion to Continue Trial be filed under seal. Sealing is necessary because it contains confidential medical information.

II. ARGUMENT

The Motion for an Order to Seal should be sealed because it contains confidential medical information that the public would not, under any other circumstances, be entitled to see. It is true that judicial proceedings are generally open to the public and that there exists, while not a First Amendment right, a common law right of public access to judicial records and documents. *Media Gen. Operations, Inc. v. Buchanan*, 417 F.3d 424, 429 (4th Cir. 2005) (citing *Balt. Sun Co. v. Goetz*, 886 F.2d 60, 64-65 (4th Cir. 1989)). The presumption of the right of access can be rebutted if countervailing interests heavily outweigh the public interests in access. *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004). The party seeking to overcome the

presumption bears the burden of showing some significant interest that outweighs the presumption. *Id.* at 575. Ultimately the decision to seal is a matter best left to the sound discretion of the district court. *Washington Post*, 386 F.3d at 575. With respect to medical records in particular, the Eastern District of Virginia has previously held that such records are entitled to privacy protection and may be filed under seal. *James v. Service Source, Inc.*, 2007 U.S. Dist. LEXIS 86169 at *12 (Nov. 21, 2007 E.D. Va.).

The Defendant seeks to publicly file a redacted opposition that omits sensitive and private medical information. Counsel will provide the government and this Court separate unredacted versions of Defendant's pleading.

III. CONCLUSION

Defendant respectfully requests that the Court enter an Order providing that portions of Defendant's Opposition to Government's Motion to Exclude Evidence at Trial and Consent to Government's Motion to Continue Trial shall be permanently filed under seal.

Respectfully submitted,

ZACKARY ELLIS SANDERS
By Counsel

Respectfully submitted,

/s/
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Counsel for Defendant Zackary Ellis Sanders

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2021, the foregoing was served electronically on counsel of record through the U.S. District Court for the Eastern District of Virginia Electronic Document Filing System (ECF) and the document is available on the ECF system.

/s/
Nina Ginsberg